

February 4, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services file nos. **L01P0016A and L03RE038**
Proposed Ordinance No. **2003-0490**

EVENDELL

Preliminary Plat Revision and Proposal for Transfer of Density Credits

Location: Lying South of Southeast 136th Street, between 156th Avenue Southeast
And 160th Avenue Southeast

Applicant: U.S. Land Development Association/Centurion,
represented by **Michael Romano**
22617 – 8th Drive Southeast
Bothell, Washington 98021
Telephone: (425) 486-2563
Facsimile: (425) 486-3273

King County: Land Use Services Division,
represented by **Karen Scharer**
900 Oakesdale Avenue Southwest
Renton, WA 98055-1219
Telephone: (206) 296-7114
Facsimile: (206) 296-7055

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:

Department's Final Recommendation:

Examiner's Decision:

Approve, subject to conditions

Approve, subject to conditions (modified)

Approve, subject to conditions (modified)

EXAMINER PROCEEDINGS:

Hearing Opened:

January 22, 2004

Hearing Closed:

January 22, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Transfer of density credits
- Road improvements
- Safe walking conditions
- Wetland buffer averaging
- Tree protection

SUMMARY:

Application for approval of transfer of 20 density credits and revision of a preliminary plat, to subdivide 12.43 acres into 70 lots in the urban area, is granted preliminary approval.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner: U.S. Land Development Association
P.O. Box 22200
Seattle, WA 98122

Representative: Michael Romano
Centurion Development Services
22617 8th Dr. SE, Bothell, WA 98021
Phone: 425-486-2563
Facsimile: (425) 486-3273
e-mail: Michael.romano@verizon.net

Location: Lying south of SE 136th Street between 156th Avenue SE and 160th Avenue SE.

Section/Township/Range: SE 14-23-05 Parcels # 142305 9022 & 9009

Acreage Plat: 12.43 acres

Zoning: R-4

Number of Lots: Proposed: 70 (previously approved: 46)

Density: 5.6 dwellings per acre

Lot Size: 3,900 to 6,600 square feet

Proposed Use: single family

Sewage Disposal: City of Renton

Water Supply: Water District #90

Fire District: King County Fire District # 25
 School Districts: Renton & Issaquah
 Community Plan: Newcastle
 Drainage Subbasin: Lower Cedar River
 King County Permits: Subdivision
 Complete Application Date: October 27, 2003
 Threshold Determination: Mitigated Determination of Nonsignificance (MDNS)
 Date of Issuance: December 23, 2002 (Adoption Notice Nov. 10, 2003)

KC Permit Contact: Karen Scharer, Project Manager II, Current Planning Section, LUSD
 Phone # 296-7114 or e-mail at karen.scharer@metrokc.gov

2. Except as modified below, the facts set forth in the King County Land Use Services Division's preliminary report to the Hearing Examiner for the January 22, 2004, public hearing are found to be correct and are incorporated herein by this reference. Said report is exhibit no. 60a in the hearing record.
3. Directly north, east and south of the eastern 11 acres of the subject property (proposed lot nos. 12-70) are three parcels proposed to be subdivided pursuant to the R-4 zoning classification. Those parcels are the subject of DDES application nos. L03P0006 (Liberty Grove), L03P0005 (Liberty Grove Contiguous) and L03P0015 (Nichols Place). The adjacent property to the west is developed with single-family residences on larger lots. There is no currently proposed or anticipated development of the property to the west.
4. King County's "Transfer of Development Rights (TDR)" program is governed by Chapter 21A.37 of the King County Code. The TDR program establishes a property right which is separable from the fee-simple title to certain lands within King County, and provides a method for the transfer and utilization of that new right, which is colloquially known as a development right or "density credit." A density credit has a substantial market value.

The underlying purpose of the TDR program is to allow for the movement of residential density from rural areas to urban areas of King County. The code is intended to provide, "...an efficient and streamlined administrative review system to ensure that transfers of development rights to receiving sites are evaluated in a timely way and balanced with other County goals and policies, and are adjusted to the specific conditions of each receiving site." KCC 21A.37.010.2.

Receiving sites are required to meet the provisions of KCC 21A.37.030. Those requirements are that the receiving site:

1. be within an unincorporated urban area, zoned R-4 or higher, or be within a potential annexation area;
2. be within a city where new growth is or will be encouraged, and where facilities and services exist or public investments in facilities and services will be made; or
3. be within RA-2.5 and RA-5 zoned parcels, subject to stringent criteria.

The subject property is within the first category of eligible receiving sites listed in KCC 21A.37.030. Sites within the unincorporated urban growth area are not required to have

any specific level of available facilities and services. Development approvals that utilize density credits must meet only those service criteria that apply generally to development of the number of dwelling units proposed on the site.

King County Code chapter 21A.12 governs densities and development standards in residential zones. The R-4 zone in the urban residential area allows for a maximum density of six dwelling units per acre, which may be achieved only through the application of residential density incentives or transfers of development rights. KCC 21A.12.030.A. and B.1. When density credits are used, development shall comply with dimensional standards of the zone having a base density most comparable to the total approved density. KCC 21A.37.030.B.

5. The foregoing provisions of the King County Zoning Code are generally consistent with policies of the King County Comprehensive Plan governing residential land use. In particular, the Zoning Code provisions are generally consistent with:

Policy U-113, that new residential development in the Urban Growth Area should occur where facilities and services can be provided at the lowest public cost and in a timely fashion;

Policy U-114, that the County seek to achieve an average zoning density of at least seven to eight homes per acre in the Urban Growth Area through a mix of densities, allowing for lower density zones to recognize existing subdivisions with little or no opportunity for infill or redevelopment;

Policy U-122 that supports increases in urban density through a rezone or a proposal to utilize density transfer, when the proposal will help resolve traffic, utility, parks or open space deficiencies in the immediate neighborhood. This proposal will improve traffic circulation in the area, will extend sewer service further into the urban area, and will provide recreation facilities and open space available to future residents on the subject property.

Comprehensive Plan Policy U-120 addresses zoning changes to increase density, and is not material to this application for use of density credits consistent with the existing zone classification. Likewise, policy U-121 applies to the evaluation of rezone requests, and is not material to this application.

6. DDES and the Applicant have agreed upon right-of-way dedications and road improvements to mitigate the impacts of traffic which the Applicant's proposal will generate adjacent to and in the immediate vicinity of the proposed development. The dedications and improvements include additional right-of-way and construction on Southeast 136th Street, from 156th Avenue Southeast to 160th Avenue Southeast, and shoulder improvements along the site frontage of 160th Avenue Southeast.
7. In order to provide safe walking conditions for students from this subdivision who will walk to school, improvements are necessary along existing right-of-way or upon right-of-way anticipated to become available through the development of subdivisions to the east of the subject property. The existing available right-of-way that can accommodate children walking to school is on 160th

Avenue Southeast to Southeast 135th Street, then east to 166th Avenue Southeast, and then south to the north boundary of the Liberty High School property. Alternatively, a route within future right-of-way may become available along Southeast 136th Street east from 160th Avenue Southeast to 162nd Avenue Southeast, then south to “5-lot subdivision” (a.k.a. Dickenson Plat), that would enable a connection to the southwest corner of the Liberty High School property. Improvements to either route could accomplish the provision of safe walking conditions for students who will walk to school from the subject property.

8. Removal of trees from this or other property being developed commonly subjects trees on adjacent properties to stress and increases the windthrow hazard. Trees that remain in an area which is substantially cleared present an increased risk to persons and property on and off the site of the remaining trees. There is no King County regulation applicable to the subject property that restricts clearing or tree removal to protect trees on adjacent properties from increased stress or risk of windthrow. The environmental review of this proposal did not identify impacts of clearing or tree removal as a significant adverse environmental impact of the proposal.
9. The Applicant’s proposal includes wetland buffer averaging to enable proposed road construction and possibly facilitate lot development. The area shown for the provision of additional buffer to mitigate impacts of lost buffer is in the northeast corner of the plat, adjacent to 160th Avenue Southeast and Southeast 136th Street. Replacement buffer is proposed at approximately a 2:1 ratio to lost buffer area. This would provide additional protection to the class 2 wetland, as required by KCC 21A.24.320.B.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.
5. This proposal is subject to the mitigated determination of environmental non-significance issued December 23, 2002 and adopted November 10, 2003. There was no appeal of the MDNS or of its adoption for this proposal. Therefore, the conditions of that MDNS must be implemented as conditions of this preliminary plat approval.

The conditions of the MDNS require substantial downstream drainage improvements (see condition no. 19). Culvert and channel improvements required in the east drainage basin for a distance approximately 1,700 downstream from the plat, together with the change in flow volume resulting from development of the subject property, should be analyzed by the Applicant and reviewed by DDES to determine the impacts, if any, downstream from the improvements. Any such impacts should be addressed if it is necessary to do so to prevent flooding or other damage from occurring as a consequence of the required improvements.

6. The Applicant has negotiated for the purchase of 20 development rights, which would allow for an increase in the number of lots to be developed on the subject property to a total of 70. This development will be within the maximum density of 6 dwelling units per acre permitted in the R-4 zone classification in the urban area, although it will be most comparable to the base density of the R-6 zone classification. The proposed development of the subject property, utilizing 20 density rights, is consistent with all applicable development standards and other provisions of the King County Code.
7. The road improvements proposed and agreed to by the Applicant, including those shown in the 70-lot preliminary plat revision received October 1, 2003, as modified by the conditions recommended below, will reasonably mitigate the impacts of traffic generated by the proposed development. Due to the diversion of substantial additional traffic to the east leg of the intersection of Southeast 136th Street and 156th Avenue Southeast, substantial improvements to that intersection are necessary, and have been agreed to by the Applicant.
8. Safe walking conditions for children who walk to school from the subject property will be provided by using one of the alternatives for improvements incorporated into this proposal, set forth in finding no. 7 and reflected in the conditions of final plat approval.
9. There is no applicable provision of the King County Code to restrict the removal of trees in the course of the development of the subject property, or to protect trees on neighboring properties from increased stress and risk of windthrow.
10. The proposed wetland mitigation, and buffer averaging for the class 2 wetland at an approximate 2:1 ratio for replacement buffer, meet the requirements of the King County code. The proposed replacement buffer area gives additional protection to the wetland.

DECISION:

The preliminary plat revision of Evendell, as received October 1, 2003, is APPROVED, subject to the following conditions for final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.

3.
 - a. The plat shall comply with the maximum density (and minimum density) requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the

R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.

- b. The Applicant shall provide transfer of density credit documentation to DDES prior to final approval to allow transfer of a maximum of 20 density credits to achieve a maximum of 70 lots on the subject property.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS), subject to any variances that may be approved by the King County Road Engineer.
5. A Boundary Line Adjustment (BLA) shall be completed prior to final plat approval to except from the plat that portion of the 200 (approximate) feet on the far west that is not part of the proposed plat. Documentation demonstrating the resolution of boundary issues with the property to the south (Nichols Place) also shall be provided to DDES.
6. The Applicant must obtain the approval from the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.

Joint Use Development Tract H as shown on the plat will provide access to Lots 28 and 29. Additionally, it is a future emergency vehicle access tract to and from 160th Avenue SE, which the Applicant proposes to create in response to concerns raised by the City of Renton. The Applicant shall include proposed protocols for the construction and maintenance of Tract H, plus any related plat notes, with its engineering plans submittal, meeting the following standards:

The emergency vehicle access to 160th Avenue SE shall have a minimum driving surface width of 20 feet, with an all-weather surface capable of supporting 25 tons. Any locking device shall be approved by the Renton Fire Department (KCFD # 25). Chains, cable or bollards will not be permitted. The gate shall be located at least 50 feet from 160th Avenue SE to allow space for fire apparatus to stop while opening the gate or to wait before entering the public roadway. If these conditions are not met any future residence constructed on Lots 28 and 29 will have to be sprinklered NFPA 13D. These requirements concerning adequate fire and emergency access may be modified in a manner approved by the King County Fire Protection Engineer and King County Fire District no. 25.

7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.

- a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

“All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file.”
 - d. The stormwater detention design shall comply with the Level 2 or Level 3 Flow Control requirements, as applicable, per the 1998 King County Surface Water Design Manual (KCSWDM). (See SEPA conditions in condition no. 19.)
 - e. The storm water control facility shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for required recreation space in accordance with KCC 21A.14.180.
8. Drainage adjustment L02V0024 is approved for this project. All conditions of approval for this adjustment shall be met upon submittal of the engineering plans.
 9. A drainage easement for the conveyance from the Tract N drainage facility to 156th Ave SE shall be provided upon engineering plan submittal.
 10. The following road improvements are required to be constructed according to the 1993 King County Road Standards (KCRS):
 - a. The internal access road from SE 136th Street to the beginning of the internal loop road shall be improved to the urban subcollector standard, except that portion on the west side between Lot 11 and Lot 12 is not required to be improved with a sidewalk.
 - b. The internal loop road shall be improved to the urban subaccess road standard with sidewalks on the outside frontage of the loop road.
 - c. SE 136th Street (frontage and offsite) shall be dedicated, designed and improved in general conformance with the Preliminary Road Improvement Plan received 3/26/2002 with the Plat of Evendell:

The frontage from 158th Ave NE to 160th Ave NE shall be improved to the urban one-half street standard. Eighteen feet of additional right-of way shall be dedicated for this improvement.

SE 136th Street frontage from the west side of J.U.D.T. 'A' boundary to 158th Ave NE shall be improved to the urban neighborhood collector standard; EXCEPT that no sidewalk construction is required on the north side. Twenty feet of additional right-of-way shall be dedicated for this improvement.

SE 136th Street from 156th Ave SE to J.U.D.T. 'A' shall be improved to the urban neighborhood collector standard; EXCEPT that no sidewalk construction is required on the north side. Twenty-six feet of additional right-of-way shall be provided for this improvement. An additional 25-foot right-of-way radius is required at the southeast corner of 156th Ave SE and SE 136th Street. Striping for a second westbound lane shall be provided within the 150-foot widened section approaching 156th Avenue SE, in a manner to be worked out at the time of submission of engineering plans.

- d. 160th Ave SE FRONTAGE: The 160th Ave SE frontage shall be improved with an 8-foot paved shoulder on the west side. Adequate provisions for road drainage shall be provided.
- e. Tracts A,C,F,G,H, and I shall be improved to the joint use driveway standard per Section 3.01 of the KCRS. Tract A shall include an easement to King County for the maintenance of the Tract N drainage facility. Tract A shall be owned and maintained by the owners of Lots 1 and 2.
- f. Tracts B, D and E shall be improved to the private access tract standard per Section 2.09 of the KCRS.
- g. The Applicant shall revise the channelization that has been constructed in conjunction with the plat of Highland Estates (L00P0009). These modifications to the channelization shall incorporate a revision of the current proposed painted 'island' to a southbound left turn lane with at least 60 feet of storage for left turning vehicles to (a) encourage the use of 156th Avenue SE in lieu of 158th Avenue SE and 160th Avenue SE, and (b) mitigate the potential deficient condition that would result from southbound left turning vehicles making left turns from the southbound through lane, or using the painted island as a deceleration and refuge area while waiting for gaps in northbound traffic.

Channelization and illumination plans must be submitted to King County Traffic Engineering Section for review and approval of the turn lane channelization.

Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.

- 11. There shall be no direct vehicular access to or from 160th Avenue SE from those lots which abut this street. A note to this effect shall appear on the engineering plans and final plat.

12. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
13. The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
14. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in KCC 21A.24. Preliminary plat review has identified the following specific requirements that apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the Applicant.
 - a. This site contains a Class 2 wetland. The majority of the wetland will be protected from alteration during and after construction, with a 50-foot wide buffer around the wetland boundary. An additional 15-foot building setback is required beyond the edge of the buffer.
 - b. A maximum of 200 square feet of wetland will be filled for construction of SE 136th Street. Mitigation shall consist of at least 400 square feet of wetland enhancement to degraded portions of the existing wetland.
 - c. Road improvements for SE 136th Street and 160th Avenue SE will eliminate 6,989 square feet of wetland buffer. Mitigation shall consist of providing replacement buffer in the northeast portion of the site at approximately a 2:1 ratio to provide additional protection for the wetland pursuant to KCC 21A.24.320B. Reduced impact will result in reduced mitigation.
 - d. The proposed sewer main within the SE 136th Street right-of-way will intrude into the wetland buffer along with the road improvements. In order to protect wetland hydrology: (1) the sewer line shall be installed during the dry season (June through September), and (2) the design shall incorporate the use of pipe bed dams of bentonite or other material at intervals to preclude draining possible subsurface water flows through the gravel pipe bedding.
 - e. Downstream drainage improvements to existing culverts and stormwater conveyances required through the SEPA MDNS shall cause no adverse alteration to existing wetlands or streams in the vicinity of the drainage improvements.
 - f. Critical Areas staff shall review engineering plans for the plat and sewer main for conformance with these requirements.
15. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

16. Suitable recreation space shall be provided consistent with the requirements KCC 21A.14.180 and KCC 21A.14.190 in providing sport court[s], children's play equipment, picnic table[s], benches, etc..
 - a. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the engineering plans. This plan shall comply with Ordinance # 14045.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
17. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
18. Street trees shall be included in the design of all road improvements, and shall comply with Section 5.03 of the KCRS and KCC 21A.16.050:
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.

- b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
- c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
- d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The Applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
- g. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on current County fees.

SEPA

- 19. The following have been established by SEPA as necessary requirements to mitigate the adverse environmental impacts of this development. The Applicants shall demonstrate compliance with these items prior to final approval.
 - a. East Drainage Basin:

The 160th Ave SE downstream conveyance system shall be upgraded to provide for the 100-year storm capacity. Downstream driveway culverts/ditches and a cross-culvert under 160th Avenue SE shall be improved as follows: Culverts P-117 and P-116 on the west side of 160th Avenue SE, cross-culvert P-115, and culverts P-114 and P-113 on the east side of 160th Avenue SE shall be improved as needed. The culvert designations are according to the Level 3 Downstream Drainage Analysis by Haozous Engineering dated August 26, 2002. To address a related localized flooding condition, bank and channel stabilization are also required in the unopened right-of-way for 162nd Avenue SE, in the vicinity of the easterly line of Lot 12, Rich Lea Crest (address 16046 SE 142nd Street). It is estimated that

stabilizing and re-grading approximately 50 to 100 feet of channel, east of 16046 SE 142nd Street, will be adequate to resolve flooding that has occurred in the past location. The culverts and channel described are located from the south site boundary to a distance of approximately 1,700 feet downstream.

Level 2 Flow Control design is required for the proposed stormwater detention facility. A factor of safety of 5 to 15 percent, determined by the design engineer, shall be required for detention storage volumes.

b. West Drainage Basin:

The stormwater detention facilities shall be designed to the Level 3 Flow Control Standard as described in the 1998 King County Surface Water Design Manual (KCSWDM). As an option, Level 2 Flow Control with downstream improvements can be proposed according to Core Requirement 2 of the KCSWDM. The minimum Flow Control Standard shall be Level 2. A factor of safety of 5 to 15 percent, determined by the design engineer, shall be required for detention storage volumes.

The downstream impacts of the 1,700 feet of conveyance improvements shall be reviewed by the developer's engineer, and any recommendations necessary to prevent flooding or other damage from occurring as a consequence of the required conveyance improvements shall be included with the plans for review by DDES.

School Mitigation Fees

20. Lots within this subdivision east of 158th Avenue SE are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

School Walkways

21. A pedestrian access easement between 158th Place SE and 160th Avenue SE shall be provided over either Tract H or L (as shown in Exhibit 62). The easement shall have a minimum 10 foot width and be improved with a 5 foot wide paved surface.
22. The Applicant, individually or in conjunction with other developers, shall construct an off-site walkway to Liberty High school from the site. The walkway shall be constructed within the right-of-way from 160th Ave SE, east along SE 135th Street to 166th Ave SE, and south to Liberty High School at SE 136th Street, or via alternative right-of-way and easements that become available and are approved by DDES. One acceptable alternative would be to use future right-of-way of Southeast 136th Street and 162nd Avenue Southeast to connect with the sidewalk improvement of "five lot subdivision," and through the plat of "five lot subdivision"/L00P0023 to the southwest gate of Liberty High School. The walkway shall be designed and constructed in

accordance with the 1993 King County Road Standards and shown on the engineering plans for DDES review and approval.

Any surfacing alternative from the King County Road Standards (KCRS 3.09) may be submitted for approval through a road variance application.

ORDERED this 4th day of February, 2004.

James N. O'Connor
King County Hearing Examiner *pro tem*

TRANSMITTED this 4th day of February, 2004, to the following parties and interested persons of record:

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Edward & Nancy Hilton
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MS OAK-DE-0100

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Current Planning
MS OAK-DE-0100

Kristen Langley
DDES/LUSD
Land Use Traffic
MS OAK-DE-0100

Anne Noris
Clerk of Council
MS KCC-CC-1025

Carol Rogers
LUSD/CPLN
MS OAK-DE-0100

Karen Scharer
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Current Planning
MS OAK-DE-0100

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Transportation Planner
King Co. Dept of Transportation
MS KSC-TR-0317

Larry West
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Geo Review
MS OAK-DE-0100

Bruce Whittaker
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MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before February 18, 2004***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before February 25, 2004***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE MARCH 6 and 10, 2003 AND JANUARY 22, 2004 PUBLIC HEARING ON
DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L01P0016
AND L01TY401; L03RE038

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Karen Scharer, Kristin Langley, Bruce Whittaker and Laura Casey, representing the Department; Mike Romano, representing the Applicant; Marsha Rollinger and Gwendolyn High, representing the Intervenor; and Mark Heckert, Gary Norris, Scott Baker, Michael Rae Cooke, David Rockabrand, Dave Petry, Michelle Hagerman, Sally Nipert, Diane Kazele, Alex Weitz, Fred Jaques, Jim McDougal, John Nanney, Bill Mokin, Anita Oliphant, Vanessa Burris, June Hill, Rhonda Bryant, and Kristy Hill.

The following exhibits were offered and entered into the record:

- | | |
|----------------|--|
| Exhibit No. 1 | DDES combined file L01TY401 & L01P0016, application filed and dated July 6, 2001 |
| Exhibit No. 2A | DDES application for land use permit(s) L01TY401 & L01P0016, application dated July 6, 2001 |
| 2B | Zone reclassification application and justification questionnaire with revision received September 6, 2001 |
| Exhibit No. 3A | DDES preliminary report prepared 02/20/03 with attachments as follow: <ol style="list-style-type: none"> 1. Map of rezone from R-4 to R-6 2. Reduced copy of R-6 – 70 lot preliminary plat 3. Reduced copy of R-4 – alternative 46 lot plat 4. Density calculations for R-6 plat 5. City of Renton January 20, 2003, letter 6. City of Renton June 15, 2001 letter 7. Certificate of water availability dated May 30, 2001 8. School information dated July 12, 2001 9. SWM adjustment approval for L02V0024 dated October 17, 2002 |
| 3B | DDES addendum report with corrections and additional information regarding schools serving the property, prepared 02/27/03 |
| Exhibit No. 4 | Revised environmental checklist received October 14, 2002 |
| Exhibit No. 5 | Mitigated determination of non-significance dated December 23, 2002 |
| Exhibit No. 6 | Affidavit of posting indicating posting dates of October 3 and 4, 2001. |

Exhibit No. 7A	Site plan (70 lot preliminary plat map) received March 26, 2002
7B	Alternative site plan (46 lot preliminary plat map) received March 26, 2002
Exhibit No. 8	Assessors maps (4) for SE 14-23-05 revised 02/23/95, NE 14-23-05 revised 04/05/93, NW 14-23-05 revised 10/92, and SW 14-23-05 revised 07/07/97
Exhibit No. 9	Traffic impact analysis by Garry Struthers Associates, Inc. dated June 28, 2001
Exhibit No. 10	Traffic memo dated January 29, 2002, from Garry Struthers Assoc., Inc.
Exhibit No. 11	Preliminary technical information report dated June, 2001, by Haozous Eng., P.S.
Exhibit No. 12	Level 3 downstream drainage analysis by Haozous Eng., P.S., dated August 26, 2002
Exhibit No. 13	Addendum (6 pages plus cover) to the level-three study dated December 5, 2002
Exhibit No. 14	Wetland evaluation and delineation report, wildlife habitat evaluation and compensatory wetland mitigation plan by Habitat Technologies, dated May 15, 2001
Exhibit No. 15	Addendum to wetland/stream/wildlife report dated October 28, 2002
Exhibit No. 16	City of Renton three-page certificate of sewer availability dated 6/15/01
Exhibit No. 17	Jaques, Fred & Helga email dated November 1, 2001
Exhibit No. 18	Carlson, Marilynn letter dated November 7, 2001
Exhibit No. 19	Revised alternative R-4 plat density calculations received 3/26/02
Exhibit No. 20	Petition from Gwendolyn High (8 pg. + cover), received September 23, 2002
Exhibit No. 21	City of Renton letter received January 22, 2003, with attachments (4 pgs.)
Exhibit No. 22	Letter from G. High & M. Rollinger for Citizens Alliance for a Responsible Evendell (CARE) dated April 5, 2002 with attachments (60 pgs. + cover)
Exhibit No. 23	G. High and M. Rollinger, CARE petition to intervene filed on 2/18/03
Exhibit No. 24	DDES planning map (created 7/1/2003) prepared 2/20/2003 showing new development planned in the immediate vicinity
Exhibit No. 25	Letter from Greg Zimmerman, City of Renton, dated March 05, 2003 (2/12/03 memo attached)
Exhibit No. 26	Certificate of Transportation Concurrency received July 6, 2001
Exhibit No. 27	Topographic map provided by City of Renton (aerial photography taken Winter, 1996) subject property in conjunction with Highland Estates
Exhibit No. 28	Article from <u>King County Journal</u> , "Give Us Some Space, Firefighters Say..." 02/27/2003
Exhibit No. 29	Transportation service areas 2000 map – KCDDDES, February, 2001
Exhibit No. 30	Community action strategies sub-area priority ranking map – KCDOT, February, 2001
Exhibit No. 31	Assessors map of East Renton/Briarwood area with coloring
Exhibit No. 32	<i>Proposed but not entered into the record – area map showing nesting sites</i>
Exhibit No. 33	Online permit details – DDES website printouts (18 pgs.)
Exhibit No. 34	Notice of application for the Bales Annexation and pre-zone application, dated January 15, 2003 – City of Renton
Exhibit No. 35	Letter from Scott D. Baker, Consulting Arborist dated 2/8/03
Exhibit No. 36	Tree retention/protection buffer site plan alternatives
Exhibit No. 37	C.A.R.E. households list (2 pg)
Exhibit No. 38	Letter from Four Creeks Unincorporated Area Council dated March 5, 2003
Exhibit No. 39	Tree loss and possible ground water contamination depiction
Exhibit No. 40	Sign-in and time donation sheet (3 pg) dated March 6, 2003
Exhibit No. 41	Transportation concurrency diagrams for 2001, 2002 & 2003
Exhibit No. 42 a	Letter (2 pg) from Don & Janice Milbrath dated March 3, 2003
b	Letter (2 pg) from Kristy J. Hill dated March 6, 2003

- c Letter (2 pg) from Edward and June Hill dated March 6, 2003
- d Letter (1 pg) from Charles W. Scoby, Viola M. Scoby, and Geneva D. Scholes dated March 1, 2003
- e Letter (1 pg) from Laurie A. Hindes dated February 26, 2003
- f Letter (2 pg) from Mark Costello dated March 4, 2003
- g Letter (1 pg) from Eloise and Claude Stchowiak dated March 6, 2003
- h Letter (3 pg) from Bruce and Joyce Osgoodby dated Feb. 21, 2003, and Mar, 6, 2003
- j Letter (1 pg) from Richard Savage (undated)
- Exhibit No. 43 Letter (1 pg) from Dan & Lynn Peterson, also signed by Fred & Helga Jaques (undated)
- Exhibit No. 44 a Letter (1 pg) from John Nanney dated March 6, 2003
- b Letter (1 pg) from Linda Williams dated March 5, 2003
- c Letter (1 pg) from Rodney S. Stewart dated March 5, 2003
- d Letter (1 pg) from Edward A. Schultz dated March 4, 2003
- e Letter (1 pg) from Joseph Matsudaira dated March 5, 2003
- f. Letter (1 pg) from Brenda Matsudaira dated March 5, 2003
- Exhibit No. 45 a Letter (1 pg) from Richard & Anita Oliphant dated March 5, 2003
- b Letter (2 pg) from Mark Costello dated March 4, 2003
- c Letter (2 pg) from Jeff & Karen Sidebotham (undated)
- d Letter (1 pg) signed by Nancy & Edward Hilton dated March 6, 2003
- e Memo (4 pg) from Michael Rae Cooke dated March 4, 2003, with attached resident survey sheet, error notes, and April 3, 2002, memo and attachments (8 pg) to King County Surface Water and Land Management

The following items were entered at the March 10, 2003, continued hearing:

- Exhibit No. 46 Photos (9) provided by Anita Oliphant with commentary (undated)
- Exhibit No. 47 Letter (3 pg) from Bruce and Joyce Osgoodby dated February 21, 2003
- Exhibit No. 48 Letter (1 pg) from Marilyn Carlson dated March 9, 2003
- Exhibit No. 49 Letter (2 pg) from Kristy Hill dated March 6, 2003
- Exhibit No. 50 Letter (1 pg) from Marsha Rollinger (undated)
- Exhibit No. 51 Letter (1 pg) from Joseph Bostjancic dated March 5, 2003
- Exhibit No. 52 Memo (1 pg) from Nick Gillen dated March 7, 2003
- Exhibit No. 53 Copy of table #3 from the 2002 Issaquah school plan showing “Projected Capacity to House Sudents”
- Exhibit No. 54 Memo (1 pg) from Mark Heckert, Habitat Technologies, dated March 10, 2003
- Exhibit No. 55 Gwendolyn High’s testimony of March 6, 2003 with cover letter dated March 10, 2003 noting correction
- Exhibit No. 56 Letters from:
 - a Donald & Diane Kezelle (2 pg) - undated
 - b Vanessa Burris (1 pg)
 - c Carolyn Ann Buckett (1 pg)
 - d Ronda Bryant (3 pg) dated March 10, 2003
 - e Michael Rae Cooke (7 pg) dated 3/8/02
 - f Marsha Rollinger (1 pg) undated
 - g Sally Nipert (1 pg) dated March 6, 2003

- h Shirley Day (1 pg) dated March 6, 2003
- i Bill and Donna Mokin (2 pg) dated March 6, 2003
- Exhibit No. 57 Photos of hawk (2)
- Exhibit No. 58 DDES revised recommendation/additional conditions dated 3/10/03

The following exhibits were entered into the record at the January 22, 2004, hearing for the Evendell Revision:

- Exhibit No. 59 Department of Development and Environmental Services Application for major plat revision, filed 10/1/03
- Exhibit No. 60a Department of Development and Environmental Services preliminary report for the January 22, 2004, public hearing on file no. L03RE038, with attachments:
 - 1. 70-lot plat layout
 - 2. Density calculations
 - 3. Intent to sell and purchase density credits, dated 11/26/03
 - 4. SEPA Adoption Notice, dated 11/10/03
 - 5. Inquiry to Issaquah School District, dated 05/23/03
 - 6. Certificate of Water Availability, dated 9/18/03
 - 7. Letter from City of Renton, dated 11/19/03
 - 8. Letter from City of Renton re: Sewer Extension, dated 11/26/03
 - 9. Transportation Concurrency (e-mail of 9/03/03 & Certificate # 01305)
 - 10. SWM adjustment approval for file no. L02V0024, dated 10/17/02
- Exhibit No. 61 Department of Development and Environmental Services corrections to the Preliminary Report to the Hearing Examiner, dated 1/22/04
- Exhibit No. 62 Site Plan (plat map) for 70 lots, received October 1, 2003.
- Exhibit No. 63 Notice of Application, Hearing & Recommendation, 11/10/03
- Exhibit No. 64 Affidavit of Posting indicating November 3, 2003 as date of posting and November 6, 2003, as the date the affidavit was received by the Department of Development and Environmental Services
- Exhibit No. 65 Walkway study prepared by dmp, inc., dated 8/18/03
- Exhibit No. 66 School walking route analysis, annotated by DDES, prepared 1/21/04
- Exhibit No. 67 3/10/03 and 3/04/03 emails from Issaquah School District and Jeremy Febus re: L00P0023 plat conditions for school walkways
- Exhibit No. 68 Examiner's recommendation to the Council – L01TY401 & L01P0016, dated 3/28/03
- Exhibit No. 69 Ordinance no. 14694 denying reclassification to R-6 under file L01TY401
- Exhibit No. 70 Ordinance no. 14695 approving the 46 lot plat of Evendell
- Exhibit No. 71 Jaques, Fred & Helga, e-mail regarding density, traffic, and infrastructure inadequate to support increase in density, received 1/20/04
- Exhibit No. 72 Shirley A. Gaunt-Smith, note re: concerns, received 1/20/04
- Exhibit No. 73 Colored copy of plat map
- Exhibit No. 74 SEPA MDNS for Liberty Grove Contiguous, file no. L03TY401 & L03P0005, dated 12/16/03
- Exhibit No. 75 SEPA MDNS application for Liberty Grove, file no. L03TY403 & L03P0006, dated 12/16/03
- Exhibit No. 76 C.A.R.E. response: Evendell plat revision, L03RE038, dated 1/22/04
- Exhibit No. 77 C.A.R.E. households list

Exhibit No. 78	3/28 and 4/10/00 press releases re: Transfer of Development Credits
Exhibit No. 79	Six-year transit development plan showing urban centers, dated February, 2002
Exhibit No. 80	King County General Government Budget Advisory Task Force report, dated 6/25/03
Exhibit No. 81	A Joint City Position statement for the King County Budget Advisory Task Force
Exhibit No. 82	Message to employees from King County Executive Ron Sims, re: budget advisory task force, dated 6/09/03
Exhibit No. 83	King County Council, Budget & Fiscal Management Committee Capital Budget Panel – 2004 CIP Budget Overview
Exhibit No. 84	Article entitled “Facing the Challenges – In Transportation” by Harold Taniguchi dated 11.94
Exhibit No. 85	Transportation Service Areas 2000
Exhibit No. 86	High accident locations report no. 16, dated July 2003
Exhibit No. 87	King County transportation concurrency maps 2001, 2002 and 2003
Exhibit No. 88	Transportation concurrency map, level of service standards status, dated 3/07/02
Exhibit No. 89	2003 Annual Growth Report – excerpts
Exhibit No. 90	King County Benchmarks Report 2003: Land Use – excerpts
Exhibit No. 91	Buildable Lands Report of 8/29/02 – excerpts
Exhibit No. 92	State, county, city populations report from OFM Forecasting, State of Washington
Exhibit No. 93	Renton Strategic Planning Department – staff reports of 6/03, 9/23, 10/01 and 10/10/03
Exhibit No. 94	Renton Planning Commission recommendation of October 22, 2003
Exhibit No. 95	Renton Ordinance no. 5026
Exhibit No. 96	Renton City Council regular meeting minutes of November 24, 2003
Exhibit No. 97	DDES revised recommendations/additional conditions for file no. L01P0016, 70-lot plat, dated 3/10/03
Exhibit No. 98	Photographs (5 color copies) of tree damage to Kezele and Thorbeck Homes
Exhibit No. 99	<i>No exhibit entered</i>
Exhibit No. 100	Photographs (4 color copies) taken by Diane Kezele
Exhibit No. 101	Letter to the Hearing Examiner from Edward and June Hill (undated)
Exhibit No. 102	Letter to the Hearing Examiner from Kristy J. Hill dated January 21, 2004
Exhibit No. 103	Letter to the Hearing Examiner from Anita and Richard Oliphant dated 01/22/04

JOC:ms/gao

L01P0016A-L03RE038 RPT